

## COMMITTEE REPORT

BY THE EXECUTIVE DIRECTOR FOR ECONOMIC GROWTH AND NEIGHBOURHOOD SERVICES  
READING BOROUGH COUNCIL  
PLANNING APPLICATIONS COMMITTEE: 20<sup>th</sup> July 2022

Ward: Abbey

App No.: 220567/FUL

Address: 109b Oxford Road, Reading, RG1 7UD

Proposal: Change of use from sui generis (betting shop) to A3 restaurant with ancillary A5 takeaway and replacement shopfront (Part retrospective)

Applicant: Express Team Ltd

Deadline: 9<sup>th</sup> June 2022

### RECOMMENDATIONS

Refuse full planning permission, for the following reasons:

1. In the absence of evidence to the contrary, the applicant has failed to demonstrate that the construction, odour control measures, noise levels, and running specifications of the kitchen extract flue will not result in noise, disturbance and odours affecting occupiers of surrounding dwellings resulting in harm to the amenity of occupiers of those dwellings. The development is therefore contrary to Policies CC8, CR6, EN16 and EN17 of the Reading Borough Local Plan 2019.

#### Informatives to include:

- 1) Refused drawings and details
- 2) Positive and Proactive

## 1. INTRODUCTION/BACKGROUND

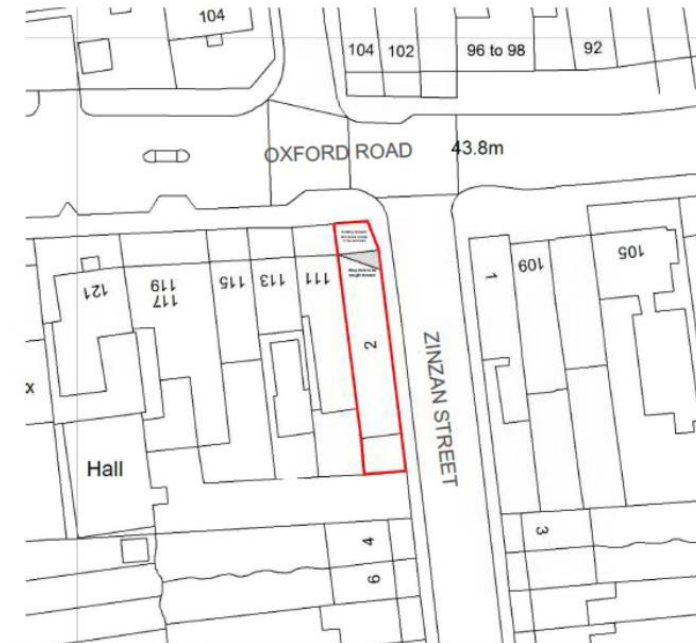
- 1.1 The application relates to a ground floor shop at the end of a terrace located on the south side of Oxford Road and forming the corner with Zinzan Street. Until 2018, the ground floor was occupied by a vacant betting shop 'Ladbrokes' - a *Sui Generis* use. The upper floors are in residential use.
- 1.2 This part of Oxford Road is characterised by retail/commercial activity at ground floor, with residential ancillary uses (to the ground floor use) on the upper floors. Backing on to the site are residential properties in Zinzan Street which are predominantly Victorian terraces. Oxford Road is a busy shopping street and a major route into and out of Reading town centre for vehicles and pedestrians alike.
- 1.3 The building is not listed but is located within Castle Hill/Russell Street/Oxford Road Conservation Area. The site is located within the defined Reading Central Area, but outside of the central core, primary

Classification: UNCLASSIFIED

shopping area and office core areas. In addition, the site is also within an air quality management area.

- 1.4 The application was called in by Councillor Page and Councillor Rowland due to concerns regarding the impact on heritage assets and odour/noise disturbance.

**Location Plan (not to scale)**



The application site as seen from Oxford Road:

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## 2. PROPOSAL AND SUPPORTING INFORMATION

- 2.1 Application 180273 granted planning permission for “Change of use from sui generis (betting shop) to A3 restaurant with ancillary takeaway and replacement shopfront”. This was approved subject to pre-commencement conditions intended to control the materials used in the new façade and the construction and control of kitchen extraction/ventilation equipment. No such details were submitted and, furthermore, works commenced on site which were not undertaken in accordance with the approved plans. Given that the change of use and associated development occurred without the discharge of conditions, the works are unauthorised.
- 2.2 In response and given the level of concern raised over the works that had taken place, an Enforcement Notice dated 17 January 2020 was served under ref Legal/SQ /IKEN13003 with the following requirements:
- (a) *“Cease the unauthorised use of the building on the land as a restaurant/takeaway (Use class A3/A5)*
  - (b) *Remove, in their entirety, the existing unauthorised shopfronts from the north (Oxford Road) and east (Zinzan Street) elevations including*

*the incorrectly-positioned doorway, display window and transom light and the “ornate timber plinth”, “ornate timber columns” (including corbel mouldings) and “ornate timber panelling”, and restore those elevations to their pre-existing state as shown on the attached Photograph ‘B’ ‘C’ and ‘D’ (Google Streetview images dated June 2018)*

- (c) *Remove the unauthorised air-handling plant installed within the east (Zinzan Street) elevation and restore that elevation to its pre-existing state as shown on the attached Photographs ‘C’ and ‘D’ (Google Streetview image dated June 2018)*
- (d) *Remove the two unauthorised air conditioning units and associated pipework and wiring from the south (rear) elevation and restore that elevation to its pre-existing state as shown on the attached Photograph ‘E’ (Google Streetview image dated June 2018)*
- (e) *Remove from the land all debris and excess building materials resulting from compliance with steps (b) to (d) above”.*

In response, this applicant submitted this application for retrospective planning permission to regularise the works on site. The Enforcement Notice remains in force but has been held in abeyance pending the outcome of this application.

2.3 The current application comprises amended shopfront proposals which are largely based on the previous approval (180273) but with a few changes, most notably the change to a centrally located doorway to the main shopfront and a revised material specification scheme. The proposals also seek to retain the existing kitchen extraction equipment used to treat and reduce fumes.

2.4 The application was due to be considered by Planning Applications Committee on 23 June 2021. The published minutes of that meeting state:

*“It was reported at the meeting that information had been received on the day of the meeting which indicated that the specification of the odour control equipment at the premises was not as stated in the application. In consultation with officers in Environmental Protection it had been agreed that it was not safe to proceed with consideration of the application and that it should therefore be deferred to allow further investigation. Resolved - That consideration of application 200142/FUL be deferred to allow further investigation of the odour control equipment.”.* This is discussed further below.

2.5 The following plans and supporting documents have been assessed:

Existing Site - Location Plan 1.0  
Existing Plan/Elevation 2.0

Proposed Plan/Elevation 3.0  
Received 19<sup>th</sup> April 2022

Paving Specification  
Design and Access Statement April 2022  
Multiflow Fan Product Brochure  
Fan Specification  
Litter Management Letter  
Filter Specifications x 2  
Filtration Specification  
Inspection and Verification Report for Ventilation Services Installed  
Design and Specification for Kitchen Ventilation System  
Received 19<sup>th</sup> April 2022

Noise Comments to Council Letter - External Noise Assessment Revised  
Received 30<sup>th</sup> May 2022

Site Noise Report  
Received 24<sup>th</sup> May 2022

Letter in Response to Environmental Protection Concerns  
Received 3<sup>rd</sup> May 2022

Rectification Report  
Received 27<sup>th</sup> April 2022

### **3. RELEVANT PLANNING HISTORY**

200142/FUL Change of use from Sui Generis (betting shop) to Class E restaurant with ancillary Sui Generis takeaway and replacement shopfront (Part retrospective). Withdrawn.

180273/FUL Amended Description: Change of use from sui generis (betting shop) to A3 restaurant with ancillary takeaway and replacement shopfront (revised elevation details). Permitted.

181755/ADV Externally illuminated fascia sign to Oxford Road and Zinzan Street shopfronts and externally illuminated projecting sign fronting Oxford Road. Permitted.

181785/APPCON Application for discharge of conditions 3,4 and 9 of Planning permission 180273. Split Decision.

Enforcement Notice Legal/SQ /IKEN13003 dated 17 January 2020

NEARBY SITES - 109A Oxford Road

201585/FUL Change of use from an estate agent use class E to a restaurant and hot food takeaway sui generis use class. Granted.

201586/ADV New fascia and projecting sign. Granted.

#### 4. CONSULTATIONS

##### (i) Statutory

4.1 None

##### (ii) Non-statutory

4.2 Environmental Protection: Have raised concerns relating to the lack of information in respect of noise associated with the kitchen extract system.

4.3 Heritage Officer: No objection subject to material details to be submitted and agreed.

##### (iii) Public/ local consultation and comments received

4.4 17 neighbour letters were sent, a site notice displayed, and a notice placed in local paper.

4.5 No neighbour letters of representation received at the time of writing this report

4.6 Representations from local groups have been received as follows:

4.7 Reading Conservation Area Advisory Committee: Support the application subject to quality of materials to be secured by condition. Concern raised over cumulative quantity of Florentine red paint. Applicant should be made aware of the Design Guide for Shopfronts SPD. Consider grey paving, instead of red block paving at the front of the site would be preferable.

4.8 Reading Civic Society: No comments received.

#### 5. LEGAL CONTEXT

5.1 Section 72 (1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires the local planning authority in the exercise of its functions to pay special attention to the desirability of preserving or enhancing the character or appearance of a conservation area.

5.2 Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that proposals be determined in accordance with the development plan unless material considerations indicate otherwise. Material considerations include relevant policies in the National

Planning Policy framework (NPPF) - among them the 'presumption in favour of sustainable development'. However, the NPPF does not change the statutory status of the development plan as the starting point for decision making (NPPF paragraph 12).

- 5.3 In this regard, the NPPF states that due weight should be given to the adopted policies of the Local Plan 2019 according to their degree of consistency with the NPPF (the closer the policies in the plan to the policies in the NPPF, the greater the weight that may be given).
- 5.4 Accordingly, the National Planning Policy Framework 2019 and the following development plan policies and supplementary planning guidance are relevant:

National Planning Policy Guidance  
National Planning Policy Framework (NPPF) 2021

Reading Borough Local Plan 2019

CC1: Presumption in Favour of Sustainable Development  
CC7: Design and the Public Realm  
CC8: Safeguarding Amenity  
EN1: Protection and Enhancement of the Historic Environment  
EN3: Enhancement of Conservation Areas  
EN6: New Development in a Historic Context  
EN16: Pollution and Water Resources  
EN17: Noise Generating Equipment  
TR3: Access, Traffic and Highway Related Matters  
TR5: Car and Cycle Parking and Electric Vehicle Charging  
RL1: Network and Hierarchy of Centres  
OU5: Shopfronts and Cash Machines  
CR1: Definition of the Centre  
CR2: Design in Central Reading  
CR6: Living in Central Reading

Supplementary Planning Documents and other guidance  
Revised Parking Standards and Design SPD (2011)  
Design Guide for Shopfronts SPD (2022)  
Castle Hill/Russell Street/Oxford Road Conservation Area Appraisal

## 6. APPRAISAL

### Principle of development

- 6.1 Planning permission was granted at the Planning Applications Committee 30<sup>th</sup> May 2018 for “Change of use from sui generis (betting shop) to A3 restaurant with ancillary takeaway and replacement shopfront” (application 180273). This application was granted with conditions attached to include material samples and

extraction/ventilation details to be submitted prior to commencement of works. The change of use itself from Sui Generis to A3 restaurant with ancillary A5 takeaway was considered acceptable in principle and that remains the case.

- 6.2 Officers worked closely with the applicant during the course of the 2018 application to arrive at a positive recommendation. However, the development was subsequently commenced without discharging the conditions, furthermore the works were not undertaken in accordance with the approved plans. This resulted in a poor visual appearance and gave rise to concerns over noise and odours from the kitchen extraction equipment.
- 6.3 The works that have taken place are considered to be unauthorised and are subject to the 2020 Enforcement Notice. This current application seeks planning permission for largely the same as that approved under application 180273 but with some changes to details including the centrally located door to the shopfront and revised material specification scheme. Retrospective approval is sought for the kitchen extraction system as installed.

#### **Design and Heritage**

- 6.4 The unauthorised works have resulted in a poor-quality appearance and are considered unacceptable in terms of the impact on the character and appearance of the Castle Hill/Russell Street/Oxford Road Conservation Area. This contrasts with the permission (180273) which represented a clear improvement to the appearance of the previous 'Ladbroke's' shopfront which had a notably poor appearance and did not contribute positively to the Conservation Area. The specific areas of breach are highlighted as follows:
- The main front door of the shopfront has been installed centrally rather than to the left-hand side (viewed from the street) as shown on the previously approved drawings;
  - The corbel moulding shown on the previously approved drawings is missing from the pilasters;
  - The timber panel above the pilaster corbel shown on the previously approved drawings (at fascia level) is missing;
  - A coated metal infill panel has been installed under the fascia in place of the transom light glazing shown on the previously approved drawings;
  - The timber shopfront panelling shown on the previously approved drawings is missing from much of the shopfront and a painted render finish with pinned-on timber beading has been applied instead;
  - The 'ornate panelling' as annotated on the previously approved drawings, where installed, consists of a manufactured timber board which grooves routed out and painted;
  - The surfacing materials for the front forecourt are not the same as that shown on the previously approved drawings;

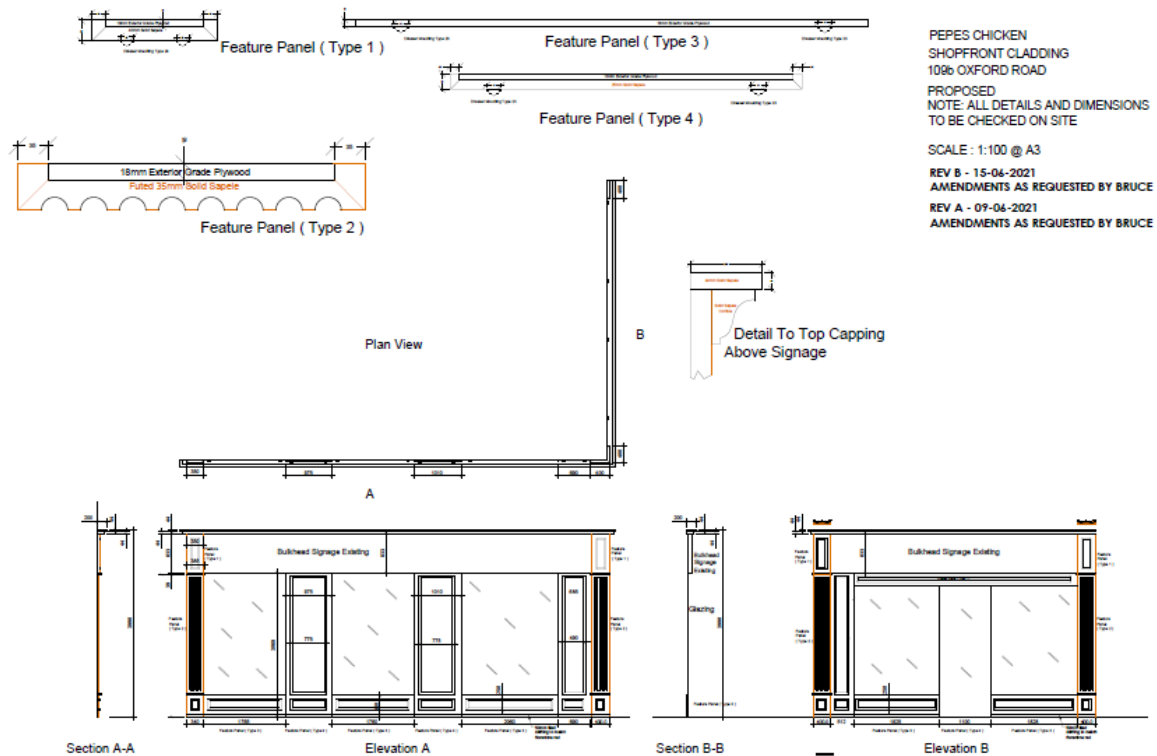


- The opening on the flank elevation shown on the previously approved drawings to be closed off with brickwork remains in use for extraction;
- Two air conditioning condensers have been mounted to the rear elevation, the position of one obstructs the installation of the air supply system acoustic louvre grille as previously approved.

- 6.5 The proposed plans largely seek to address the above and revert to a design which more closely reflects what was originally granted permission. It is proposed to keep the front door centrally as installed rather than revert to the side and this is considered acceptable, resulting in a balanced composition and being similar to other shopfronts along this part of Oxford Road.
- 6.6 It is also no longer proposed to block up the opening on the flank elevation fronting Zinzan Street. The applicant has stated that this is only for fresh air intake and this is the same as that for application 201585 at 109a Oxford Road. Given this and that this is an existing small-scale opening, this is not considered unacceptable.
- 6.7 It is proposed to move the air conditioning unit to a lower position on the rear elevation. This would allow for the installation of the air supply system and it would also further minimise its impact visually. Whilst it would be visible when viewed directly from the rear of the site (from the rear yard), it would not be readily visible from Zinzan Street.
- 6.8 Further details of the external architectural appearance have been submitted during the course of the application as follows:
- a sample of the Herringbone brick paving (red) for the front of the shop;
  - a colour chart depicting the 'Florentine' red proposed to paint the timber columns and panels; and
  - a more detailed drawing depicting the timber panel detail (using Solid Sapele timber)



*Paving sample and colour chart*



*Timber panel detail*

6.9 Further to the above, the applicant has provided a final drawing of the shopfront which also now includes the proposed timber front door painted Florentine red.

6.10 It is considered, in consultation with the Council’s Conservation and Urban Design Officer, that the proposals would represent an opportunity to enhance this building, with the ground floor colours

sympathetic to the upper floor and the shopfront restored to a more traditional form which respects the age and character of the host building. Similarly, the proposal to replace the tarmac with a charcoal colour paving would also improve the appearance when viewed from Oxford Road.

- 6.11 The design and heritage aspects of the proposals are considered to comply with Policies EN1, EN3, CC7, CR2 and the recently adopted Design Guide for Shopfronts SPD (2022)

**Impact on neighbouring amenity (including environmental protection matters)**

- 6.12 Policy CC8 seeks to prevent development from having a detrimental impact on the living environment of existing residential properties through noise and disturbance, dust, smells, fumes and vibrations. Policy EN17 requires that any noise generating equipment should be designed to read at least 10dBA below the existing background level as measured at the nearest sensitive receptor.
- 6.13 The main issue in terms of residential amenity is noise and odours from the extraction equipment associated with the use. It is not uncommon for restaurants and hot food takeaways to be located close to residential accommodation and for fumes and smells to be dealt with by means of extraction equipment. It is noted that in this regard, whilst planning application 180273 included a specific condition requiring further ventilation and extraction details to be submitted prior to works commencing, these details were not provided. Furthermore, there are concerns that the system that has been installed (and which the current application retrospectively seeks to retain) does not satisfactorily control odour emissions.
- 6.14 Information had been received on the day of the 23 June 2021 Planning Applications Committee meeting in respect of withdrawn application 200142/FUL, which indicated that the specification of the odour control equipment at the premises was not as stated in the current application. This led to that application being deferred to allow further investigation. The applicant was invited to submit further detail in terms of the current system as installed but had not submitted anything meaningful and the application was withdrawn by the applicant prior to 23 June 2021 PAC to avoid refusal.
- 6.15 The information received on 23 June 2021 suggested that the installed system in fact falls well short of the specifications which the submitted noise and odour reports stated as being necessary to avoid noise and odour concerns. As things stand, it remains far from clear as to the extent of the shortcomings of the installed system (which the retrospective application seeks to retain in its current form) and therefore if any works could be carried out to bring it up to the

required standard. Indeed, it may not be possible and a wholly different system may be required.

- 6.16 Further detail has been submitted under the current application, detailing remedial works which are required to be carried out to reduce the odour emitted from the air extraction unit. This includes repairing the Electrostatic Precipitator unit, changing carbon filters, and cleaning the ductwork (including provision of access doors to facilitate this). A second report confirming that the works have been undertaken was submitted in April of this year.
- 6.17 The submitted details also include specifications for the baffle filters, activated carbon filters, extraction fan, Electrostatic Precipitator and the ventilation system as a whole.
- 6.18 The submitted report highlights the importance of ongoing maintenance and includes a service and cleaning programme. The Council's Environmental Protection Officer confirms that they are satisfied with the information provided regarding odour control. However, they do acknowledge that the proof will be in how the system performs when it opens and recommend a condition that a professional review/inspection of the system takes place following 6 weeks of opening or similar and report submitted.
- 6.19 Specifically with regard to odour, it is considered that conditions could be imposed requiring any remaining works as may be required to bring the existing system in line with the submitted technical details; requiring compliance with the maintenance and servicing schedule; and requiring a performance review and any further remedial works to the system as may be required.
- 6.20 Matters relating to noise remain unresolved. On the advice of Environmental Protection, a clear BS4142 assessment comparing the L90 background noise to the total noise from the plant to show it is 10 dB below the L90 at the receptor is required.
- 6.21 Although some matters relating to odour appear to have been resolved it remains the case that the current application fails to demonstrate that the retention of the existing system would avoid harm to the amenity of adjoining dwellings in terms of noise, contrary to policies CC8, CR6, EN16 and EN17 of the Reading Borough Local Plan 2019.
- 6.22 The proposed hours of use of the premises remain as previously approved under application 180273: 11:30-23:00 Sunday - Thursday and 11:30 - 23:30 Friday-Saturday. This is not considered unreasonable given that approval and the operating hours of other nearby establishments and this could be secured by condition. As determined previously under 180273, the use of the premises incorporating hot food takeaway might generate additional activity over and above the previous betting shop use, especially in the evening hours, however, it

is not considered that this would be so significant as to be detrimental to neighbouring residential properties especially in view of the existing hot food takeaway businesses nearby in this parade of shops which are of a similar character.

### Highway Matters

- 6.23 This site is situated on A329 Oxford Road which is a main transport corridor in and out of Reading and is a busy public transport route between central Reading and the west. It is located in Zone 2, Primary Core Area, of the Revised Parking Standards and Design SPD. This zone directly surrounds the Central Core Area and extends to walking distances of 2 kilometres from the centre of Reading.
- 6.24 Oxford Road and the surrounding road network all have extensive parking restrictions preventing on-street parking. A residents' permit parking scheme operates in the area thereby restricting and monitoring unauthorised parking.
- 6.25 In accordance with the Council's adopted Parking Standards and Design SPD, the proposed restaurant use would generate a parking demand of 1 space per 5sqm whereas the proposed take-away use would generate a parking demand of 1 space per 40sqm. There is no off-street parking associated with the site however the parking demand generated by the proposal could be suitably accommodated within the short stay parking bays on Oxford Road and nearby public car parks as is currently the case with other similar uses in the street.
- 6.26 There are therefore considered to be no transport objections to the proposals in accordance with Local Plan Policies TR1, TR3 and TR5 and the Revised Parking Standards and Design SPD 2011.

## 7. CONCLUSION

- 7.1 Having regard to the Development Plan, material considerations and all matters raised, officers consider that, whilst the proposals would visually enhance the character and appearance of the conservation area, insufficient evidence is available within the application to demonstrate that the construction, noise characteristics, and running specifications of the *existing* kitchen extract flue would avoid causing noise and disturbance to occupiers of surrounding dwellings. Also, it has not been established which *alterations*, if any, could be made to the system to ensure that it performs in such a way as to avoid harm to the amenity of these neighbouring dwellings. The development is therefore contrary to Policies CC8, CR6, EN16 and EN17 of the Reading Borough Local Plan 2019 and is recommended for refusal on that basis.

*The Implications of Refusal*

7.2 The use remains unauthorised, as does the existing shopfront and kitchen extract. It is not possible to separate these elements and the application must be determined as it stands. The Enforcement Notice dated 17 January 2020 is still in force and can be enforced through the courts. It should be noted however that this leaves an undesirable situation whereby the heritage benefits would not be realised because the Enforcement Notice requires the return of the site to its pre-existing state - i.e. the 'Ladbroke's' shopfront configuration. An alternative approach would be to withdraw the existing notice and serve a new one targeting the kitchen extraction system.

Case Officer: Ethne Humphreys

**Proposed Floor Plan and Elevations**



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